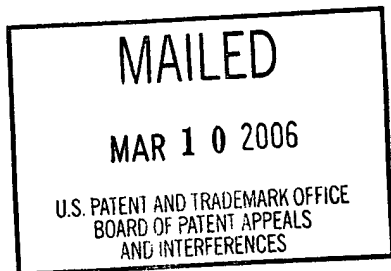


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte CHARLES D. POWELL

Application 10/696,906

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on February 13, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

The Examiner's Answer mailed September 23, 2005, does list the prior art of record being relied upon in the rejections. Page 2 of the examiner's answer contains a section heading titled "**(8) Evidence Relied Upon**" that states "[n]o evidence is relied upon by the examiner in the rejection of the claims under appeal". The examiner is directed to the Manual Of Patent Examining Procedure (MPEP) § 1207.02(A) (8th ed., Rev. 3, August 2005) which states in part:

(A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

...

(8) *Evidence Relied Upon*. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

Since the examiner's § 103(a) rejections are based on prior art references (Caccamo, Sugimoto, Porter), these references and any other evidence relied upon in the rejections of the appealed claims should be listed under the "(8) Evidence Relied Upon" heading in the examiner's answer. Correction is required.


Accordingly, it is

ORDERED that the application is being returned to the Examiner

- a) to issue a revised Examiner's Answer listing the prior art of record being relied upon in the rejections of the appealed claims under the appropriate heading, and
- b) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By:



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DMS/vsh

Application 10/696,906

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